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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,276	02/20/2004	Po-Wei Liu	REAP0050USA	2275
27765	7590	05/07/2008	EXAMINER	
NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION			ABRAHAM, ESAW T	
P.O. BOX 506			ART UNIT	PAPER NUMBER
MERRIFIELD, VA 22116			2112	
NOTIFICATION DATE		DELIVERY MODE		
05/07/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Patent.admin.uspto.Rcv@naipo.com  
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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/708,276	LIU ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ESAW T. ABRAHAM	2112	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 January 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

### **Response to Applicant's Response/Amendment**

#### ***Claim Rejections - 35 USC § 112***

1. In view of the applicant's argument filed on 01/238/08, the Examiner withdraws 112, 2<sup>nd</sup> rejections to the claims.

#### **Response to Amendment**

2. Applicant's arguments, see Remark, pages 7-10, filed 01/28/08, with respect to the rejection(s) of claim(s) 1-20 under 103(a) have been fully considered and are persuasive. Therefore, the rejection under 103(a) has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of 112, 2<sup>nd</sup> paragraph rejection and 101 rejections are made.

#### ***Claim Rejections - 35 USC § 112, 2<sup>nd</sup>***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1, 11, and 18 provides for the use of testing the integrity of a memory with defective sections (see Applicant's specification paragraph 0008), but, since the claim does not set forth any steps involved in the method/process "about the memory with defective sections", it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

Claims 2-10, 12-17, 19 and 20 depend from claims 1, 11 and 18 and inherently include limitations therein and therefore are rejected as well.

4. Claims 1, 11 and 18 recite, “comparing the testing results for each of the plurality of operating environments and if the results are the same, the memory is determined to have integrity”. It is not clear how the results of each of the operating environments are the same and the same results for each of the plurality of operating environments affect to determine the memory to have integrity. Furthermore, there is also one condition, for example, to satisfy for the memory to have integrity not to not have integrity if the testing result is not the same.

Claims 2-10, 12-17, 19 and 20 depend from claims 1, 11 and 18 and inherently include limitations therein and therefore are rejected as well.

***Claim Rejections - 35 USC § 101***

5. Claims 1, 11, and 18 are rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

Claims 2-10, 12-17, 19 and 20 depend from claims 1, 11 and 18 and inherently include limitations therein and therefore are rejected as well.

### **Allowable subject matter**

6. Claims 1-20 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph rejection and 101 rejection, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The examiner would like to point out that to overcome the type of 112, 2<sup>nd</sup> paragraph rejection the claims need to be amended to include for example, in claim 1, line 6, "repeatedly testing the same memory with defective sections" and after line 13 (the end of the claim) "if not the memory with defective sections is declared to not have the integrity". Note: The 101 rejection would overcome if the 112, 2<sup>nd</sup> rejection are overcome by amending the claims.

### **Conclusion**

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esaw T. Abraham whose telephone number is (571) 272-3812. The examiner can normally be reached on M-F 8am-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on (571) 272-6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EA

/Esaw T Abraham/

Examiner, Art Unit 2112

05/03/08

<b>Application Number</b> 	Application/Control No.	Applicant(s)/Patent under Reexamination
	10/708,276 Examiner ESAW T. ABRAHAM	LIU ET AL. Art Unit 2112